

Remarks

Applicant hereby elects Figure 4 with traverse. Corresponding claims include, to the extent the Restriction is understood, claims 1-15.

Applicant's traversal is at least two-fold. First, the Examiner has not presented a single reason for the Restriction. As such the Restriction cannot be maintained.

Second, claim 1 and its dependent claims are by definition directed to the same invention and are therefore not subjected to a Restriction under U.S. Patent Law and M.P.E.P. As dependent claims to claim 1, all the claims overlap in scope, and claims that overlap in scope cannot be considered different species for the purposes of a restriction requirement. *See, e.g.*, M.P.E.P. § 806.04(f) ("to require restriction between claims limited to species, the claims must not overlap in scope").

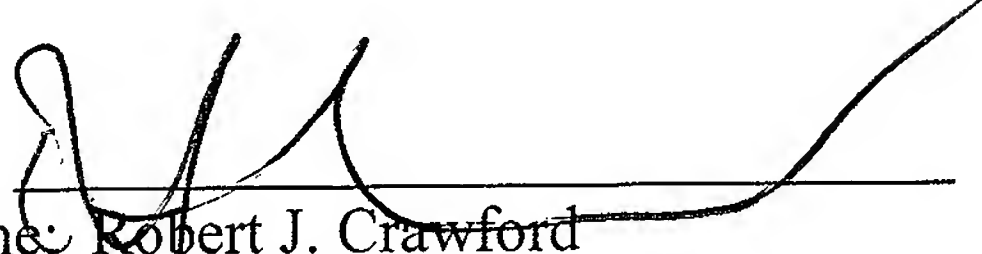
Moreover, according to M.P.E.P. § 806.05(c), in "applications claiming plural inventions capable of being viewed as related in two ways, for example, as both combination-subcombination and also as species under a claimed genus, both applicable criteria for distinctness must be demonstrated to support a restriction requirement." *See also* M.P.E.P. § 806.04(b). Thus, in order to "support a requirement for restriction between combination and subcombination inventions, both two-way distinctness and reasons for insisting on restriction are necessary," with the inventions being distinct only if it can be shown that a combination as claimed: "(A) does not require the particulars of the subcombination as claimed for patentability (to show novelty and unobviousness), and (B) the subcombination can be shown to have utility either by itself or in another materially different combination." *See, e.g.*, M.P.E.P. § 806.05(c).

In view of the remarks above, Applicant believes that the restriction has been overcome and the application is in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is asked to contact the agent overseeing the application file, Aaron Waxler, of NXP Corporation at (408) 474-9063 (or the undersigned).

Please direct all correspondence to:

Corporate Patent Counsel
NXP Intellectual Property & Standards
1109 McKay Drive; Mail Stop SJ41
San Jose, CA 95131

CUSTOMER NO. 65913

By: 
Name: Robert J. Crawford
Reg. No.: 32,122
651-686-6633
(NXPS.626PA)